

E-FILED 05/06/13
CLOSED

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

TYRONE G. MALHIOT; and TYRONE
G. MALHIOT, as executor of ESTATE
OF GEORGE J. MALHIOT,

Plaintiffs,

v.

WELLS FARGO BANK, N.A.,
successor by merger with Wells Fargo
Home Mortgage, N.A., f/k/a
WACHOVIA MORTGAGE, FSB f/k/a
WORLD SAVINGS BANK, FSB;
NDEX WEST, LLC, a Delaware
Corporation; and all persons or entities
unknown claiming any legal or equitable
right, title, estate, lien or interest in the
property described in this Complaint
adverse to Plaintiff's title thereto, and
DOES 1 through 25, inclusive,

Defendants.

CASE NO.: CV 12-9400 PSG (PLAx)

~~[PROPOSED]~~ JUDGMENT OF
DISMISSAL

*[Assigned to the Hon. Philip S.
Gutierrez]*

On April 30, 2013, this Court entered an Order granting the motion of
defendant WELLS FARGO BANK, N.A., successor by merger with Wells Fargo
Bank Southwest, N.A., formerly known as Wachovia Mortgage, FSB, formerly

1 known as World Savings Bank, FSB (“Wells Fargo”), to dismiss plaintiff’s first
2 amended complaint as to all causes of action, pursuant to Rule 12(b)(6) of the
3 Federal Rules of Civil Procedure. Accordingly:

4 IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

- 5 1. This action is dismissed with prejudice.
- 6 2. Plaintiff Tyrone G. Malhiot and Tyrone G. Malhiot, as executor of
7 Estate of George J. Malhiot will take nothing from defendant Wells
8 Fargo in this action; and
- 9 3. As the prevailing party, defendant Wells Fargo may submit an
10 application to tax costs and a motion to recover reasonable attorneys’
11 fees.

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13
14 Dated: 5/6, 2013

PHILIP S. GUTIERREZ

HONORABLE PHILIP S. GUTIERREZ
U.S. DISTRICT COURT JUDGE

CERTIFICATE OF SERVICE

I, the undersigned, declare that I am over the age of 18 and am not a party to this action. I am employed in the City of Pasadena, California; my business address is Anglin, Flewelling, Rasmussen, Campbell & Trytten LLP, 199 S. Los Robles Avenue, Suite 600, Pasadena, California 91101-2459.

On the date below, I served a copy of the foregoing document entitled:

[PROPOSED JUDGMENT OF DISMISSAL]

on the interested parties in said case as follows:

SEE ATTACHED SERVICE LIST

☒ **BY MAIL:** I am readily familiar with the firm's practice of collection and processing correspondence by mailing. Under that same practice it would be deposited with U.S. Postal Service on that same day with postage fully prepaid at Pasadena, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

**Served By Means Other than
Electronically Via the Court's
CM/ECF System**

Attorneys for

**Served Electronically
Via the Court's CM/ECF System**

Attorneys for

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. I declare that I am employed in the office of a member of the Bar of this Court, at whose direction the service was made. This declaration is executed in Pasadena, California on May 1, 2013.

Michael Kaplan

(Type or Print Name)

/s/ Michael Kaplan

(Signature of Declarant)